

LENDER ALERT

Wyoming District Office

U.S. Small Business Administration



April 2003

www.sba.gov/wy

Steve Despain, District Director

UPCOMING EVENTS

- April 1st – Women's Roundtable Meeting
Jackson
- April 2nd – Women's Roundtable Meeting
Casper
- April 3rd – Women's Roundtable Meeting
Laramie
- April 7th – 9th Governor's Hospitality
Conference - Casper
- April 8th – Women's Roundtable Meeting
Sheridan/Lyman
- April 11th-12th – Young Entrepreneur
Workshop – Casper
- April 15th – Women's Roundtable Meeting
Cheyenne and Cody
- April 17th – Business Expo – Casper
- April 17th – Women's Roundtable Meeting
Powell
- April 22nd – Women's Roundtable Meeting
Afton
- April 23rd – Women's Roundtable Meeting
Evanston
- April 23rd-25th – WBA Credit Conference
Thermopolis
- April 28th – SBDC Counselor Training
Laramie
- April 29th – WNET Conference Call

New SBA Express Lenders

During March, two new Wyoming Lenders have been admitted to the SBA Express Lending Program: First National Bank of Wyoming-Laramie and Cheyenne, and Sheridan State Bank, Sheridan. The SBA Express Loan Program allows lenders to make working capital loans, revolving lines of credit loans, and credit card loans in amounts as large as \$250,000. The lender uses mostly its own forms and receives a 50% SBA guaranty. Call your local SBA office 261-6505 or see the SBA web page for more program information www.sba.gov/banking

Assumption Fee & Eligibility Provision for 7(a) Loans

SBA Policy Notice 5000-858 announced the implementation of a new policy for the 7(a) loan program that allows a participant lender to charge an assumption fee. The use of assumptions rather than the creation of new loans is beneficial to small business owners and allows a more efficient use of the limited resources available to the 7(a) program. In the case of an assumption, SBA does not require a new guaranty fee, and lien positions are often maintained eliminating the need for recording fees. The fee is intended as an incentive for a lender to retain an existing loan.

The following language is added to SOP 50 50, Chapter 3, paragraph 8, "What Fees Can a Lender Charge?" The new provision will replace the current paragraph 8.a.(4) on page 3-10. The current paragraph 8.a.(4), "What fees are prohibited?" will be re-numbered as paragraph 8.a.(5).

8.a.(4) Assumption Fee

In the case where a new borrower is assuming an existing SBA 7(a) guaranteed loan, the lender may charge an assumption fee consistent with the lender's assumption fee on its non-SBA guaranteed loans but must not exceed 1 percent of the total outstanding principal balance of the loan being assumed. This fee may be paid by the seller or the assumptor. For guidance on assumptions, refer to Chapter 5, "Specific Loan Servicing Actions," paragraph 10,

“Assumption of a Loan by an Unrelated Party.” A cross reference note will be inserted in Chapter 5, at the end of paragraph 10.d., “SBA counsel review of 327 actions for all loan assumptions” on page 5-16 as follows: NOTE: Lender may charge an assumption fee. [see Chapter 3, “Administrative Aspects for Loan Servicing,” paragraph 8.a.(4), “Assumption Fee.”]

Eligibility Issue

In addition, this notice establishes a distinction between the treatment of an assumption of a loan to an ongoing business and an assumption of a loan that is in workout status. SOP 50 50, Chapter 5, paragraph 10.c.(1)(a) on page 5-14 is modified as follows:

How do you process a loan assumption?

You must:

Determine that the business assuming a loan that is not in workout status meets the eligibility criteria for new 7(a) loans (e.g. character, nature of business, size, etc.). Business assuming loans that are in workout status do not have to meet the eligibility criteria established for new 7(a) loans.

There are no changes to the assumption policies for Section 504 loans. Lenders and SBA offices are reminded to limit the risks of an assumption by complying with the procedures in SOP 50 50, “Loan Servicing,” Chapter 5, paragraph 10, “Assumption of a Loan by an Unrelated Party” and in Appendix 29, “Loan Assumption Guidelines.”

Escrow Policy for Commercial Real Estate Taxes and Insurance on 7(a) Loans

SBA Policy Notice 5000-857 announces the implementation of guidance to permit the use of an escrow account to hold money owed for property taxes, hazard insurance, and for flood and earthquake insurance when applicable on certain collateral securing Section 7(a) guaranteed loans. This policy is effective immediately. SBA has determined that it will permit the establishment of escrow accounts so that the prompt and regular payments of real estate taxes and insurance on real property financed with an SBA guaranteed loan can be maintained.

New Policy Language

The language below will be inserted as paragraph 8.g. on the bottom of page 175 of SOP 50-10-(4)(E), in Subpart A, Chapter 6 (Loan Processing Considerations):

g. Escrow Accounts for Real Estate Taxes and Insurance for 7(a) Loans

When a lender is in a senior lien position on commercial real property financed with an SBA guaranteed loan, the borrower and lender may agree to establish an escrow account for the purpose of collecting and paying the real estate taxes, hazard insurance, and for flood and earthquake insurance when applicable (or if SBA is in a junior lien position when an escrow account does not exist with the senior lien holder);

The amount of money collected for an escrow account may not exceed 105 percent of the amount charged in the current year by the taxing authority or insurance company for the total requirement to pay the annual real estate taxes and insurance;

The account must be FDIC insured and pay the borrower a money market rate of interest, or the rate typically paid on escrow accounts for commercial real property on non-SBA guaranteed loans, whichever is greater;

Except for those items specifically covered by this Policy Notice, the real estate tax and insurance escrow account will be consistent with accounts required of the lender’s conventional borrowers and the lender will use similar procedures to administer the escrow accounts on its SBA loans as it does for its non-SBA guaranteed loans [Small Business Lending Companies (SBLCs) must be consistent with the practices followed by federally regulated financial institutions];

Lenders must remit to the borrower all interest that has accrued on an escrow account and statements regarding the account, on a periodic basis no greater than one year, unless otherwise required by state or Federal law; and

Upon the termination of the escrow account, the remaining excess escrow funds must be returned to the borrower within 15 days of termination.